

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

Continuation of California Notice Register 34, No. 34-Z.

NOTE: The Fish and Game Commission is exercising its powers under Section 202 of the Fish and Game Code as the following changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption. See the text of this notice—changes are shown in **bold face** type.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 205, 215, 220, 240, 315 and 316.5 of the Fish and Game Code and to implement, interpret or make specific Sections 200, 205, 206, 215 and 316.5 of said Code, proposes to amend Section 7.50(b)(180), Title 14, California Code of Regulations, relating to special fishing regulations on the Smith River.

Updated Informative Digest/Policy Statement Overview

Current sport fishing regulations for the Smith River in the reaches of: a) the main stem from the mouth to the confluence with the Middle and South forks, b) the Middle Fork from the mouth to Patrick Creek, c) the South Fork from the mouth to Jones Creek, and the North Fork from the mouth to Stony Creek allow fishing during September 1 through March 31. The use of barbed hooks is prohibited all year.

This proposal recommends regulation changes for the Smith River estuary (downstream of the confluence with the Middle and South forks) that would extend the open season one additional month from March 31 to April 30, and allow the use of barbed hooks from September 1 through April 30. This proposal also includes eliminating the barbless hook restriction during the period from September 1 through March 31 in the other three anadromous reaches of the Smith River identified above.

Current regulations indicate that the South Fork Smith River from the mouth upstream approximately 1,000 yards to George Tyron bridge, and from Craigs Creek to Jones Creek as open to fishing from the fourth Saturday in May through March 31.

In 2004, the presentation of the Smith River regulations was modified to include a more logical sequence by drainage (e.g., South Fork, Middle Fork, etc.); the seasons, bag limits and gear restrictions were unchanged. When drafting the new 2004 regulations the closure of the South Fork Smith River between the George Tryon Bridge and Craigs Creek was omitted. Regulations previous to 2004 indicated this reach as closed to fishing. The Department proposes to

correct the inadvertent omission and identify this reach explicitly as closed to fishing.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the James W. Kellogg Training Center, 935 Detroit Avenue, Concord, California on October 22, 2004 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 15, 2004 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than October 22, 2004 at the hearing in Concord, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Tracy L. Reed at the preceding address or phone number. **Ed Pert, Department of Fish and Game, phone (916) 445-3616 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fg_comm/.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation provides additional fishing opportunities and is likely to have a positive affect on local businesses.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: August 24, 2004

Robert R. Treanor
Executive Director